



Department of Defense DIRECTIVE

NUMBER 1344.9

October 27, 1994

USD(P&R)

SUBJECT: Indebtedness of Military Personnel

- References: (a) DoD Directive 1344.9, subject as above, May 7, 1979 (hereby canceled)
- (b) Public Law 103-94, "Hatch Act Reform Amendments of 1993," October 6, 1993 (5 U.S.C. 5520a(k))
 - (c) Sections 1601 note, 1601-1614, 1631-1646, 1661-1665a, 1666-1666j, 1667-1667e of title 15, United States Code ("Truth in Lending Act")
 - (d) Sections 1601 note, 1692-1692o of Title 15, United States Code ("Fair Debt Collection Practices Act")
 - (e) through (m) see enclosure 1

1. REISSUANCE AND PURPOSE

This Directive:

1.1. Reissues reference (a) to update policy and responsibilities governing delinquent indebtedness of members of the Military Services, and prescribes policy for processing involuntary allotments from the pay of military members to satisfy judgment indebtedness in accordance with reference (b).

1.2. Establishes responsibility for procedures implementing reference (b), (c) and (d).

1.3. Designates the Director, Defense Finance and Accounting Service (DFAS), as the DoD Executive Agent for DoD forms necessary to process involuntary allotments. The Executive Agent shall publish, print, stock, distribute, and revise forms.

2. APPLICABILITY AND SCOPE

This Directive:

2.1. Applies to the Office of the Secretary of Defense, the Military Departments (including the Coast Guard when it is not operating as a Military Service in the Navy by agreement with the Department of Transportation), the Chairman of the Joint Chiefs of Staff, the Unified Combatant Commands, the Inspector General of the Department of Defense, the Defense Agencies, and the DoD Field Agencies (hereafter referred to collectively as "the DoD Components"). The term "Military Services," as used herein, refers to the Army, the Navy, the Air Force, the Marine Corps, and the Coast Guard.

2.2. Does not apply to:

2.2.1. Indebtedness of a member of the Military Services to the Federal Government.

2.2.2. Processing of indebtedness claims to enforce judgments against military members for alimony or child support.

2.2.3. Claims by State or municipal governments under the processing guidelines for complaints, including tax collection actions.

3. DEFINITIONS

Terms used in this Directive are defined in enclosure 2.

4. POLICY

4.1. Members of the Military Services are expected to pay their just financial obligations in a proper and timely manner. A Service member's failure to pay a just financial obligation may result in disciplinary action under the Uniform Code of Military Justice (reference (e)) or a claim pursuant to Article 139 of reference (e). Except as stated in this subsection, and in paragraphs 4.1.1. and 4.1.2., below, the DoD Components have no legal authority to require members to pay a private debt or to divert any part of their pay for satisfaction of a private debt.

4.1.1. Legal process instituted in civil courts to enforce judgments against

military personnel for the payment of alimony or child support shall be acted on in accordance with Sections 651-665 of 42 U.S.C. (reference (f)), and Part 7, Chapter 7, Section B. of DoD 7000.14-R, Volume 7 (reference (g)).

4.1.2. Involuntary allotments under Pub. L. No. 103-94 (1993) (reference (b)) shall be established in accordance with this Directive.

4.2. Whenever possible, indebtedness disputes should be resolved through amicable means. Claimants may contact military members by having correspondence forwarded through the military locator services for an appropriate fee, as provided under DoD Instruction 7230.7 (reference (h)).

4.3. The following general policies apply to processing of DEBT COMPLAINTS (not involuntary allotments):

4.3.1. Debt complaints meeting the requirements of this Directive, and procedures established by the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), as required by paragraph 5.1.1., below, shall receive prompt processing assistance from commanders.

4.3.2. Assistance in indebtedness matters shall not be extended to those creditors:

4.3.2.1. Who have not made a bona fide effort to collect the debt directly from the military member.

4.3.2.2. Whose claims are patently false and misleading; or

4.3.2.3. Whose claims are obviously exorbitant.

4.3.3. Some States have enacted laws that prohibit creditors from contacting a debtor's employer about indebtedness or communicating facts on indebtedness to an employer unless certain conditions are met. The conditions that must be met to remove this prohibition are generally such things as reduction of a debt to judgment or obtaining written permission of the debtor.

4.3.3.1. At DoD installations in States having such laws, the processing of debt complaints shall not be extended to those creditors who are in violation of the State law. Commanders may advise creditors that this rule has been established because it is the general policy of the Military Services to comply with State law when that law does not infringe upon significant military interests.

4.3.3.2. The rule in subparagraph 4.3.3.1. shall govern even though a creditor is not licensed to do business in the State where the debtor is located. A similar practice shall be started in any State enacting a similar law regarding debt collection.

4.3.4. Under Pub. L. No. 95-109 (1977) (reference (d)), contact by a debt collector with third parties, such as commanding officers, for aiding debt collection is prohibited without a court order, or the debtor's prior consent given directly to the debt collector. Creditors are generally exempt from reference (d), but only when they collect on their own behalf.

4.4. The following general policies apply to processing of INVOLUNTARY ALLOTMENTS under Pub. L. No. 103-94 (1993) (reference (b)).

4.4.1. In those cases in which the indebtedness of a military member has been reduced to a judgment, an application for an involuntary allotment from the pay of the member may be made under procedures prescribed by the USD(P&R). Such procedures shall provide the exclusive remedy available under reference (b).

4.4.2. An involuntary allotment from a member's pay shall not be stated in any indebtedness case in which:

4.4.2.1. Exigencies of military duty caused the absence of the member from the judicial proceeding at which the judgment was rendered; or

4.4.2.2. There has not been compliance with the procedural requirements of the Soldiers' and Sailors' Civil Relief Act of 1940 (reference (i)).

5. RESPONSIBILITIES

5.1. The Under Secretary of Defense for Personnel and Readiness shall:

5.1.1. In consultation with the Comptroller of the Department of Defense (C, DoD), establish procedures for the processing of debt complaints and involuntary allotments.

5.1.2. Have policy oversight on the assistance to be provided by military authorities to creditors of military personnel who have debt complaints, and on involuntary allotment of military pay.

5.2. The Comptroller of the Department of Defense shall:

5.2.1. Establish, as necessary, procedures supplemental to those promulgated by the USD(P&R) to administer and process involuntary allotments from the pay of members of the Military Services; this includes the authority to promulgate forms necessary for the efficient administration and processing of involuntary allotments.

5.2.2. Ensure that the Director, DFAS:

5.2.2.1. Implements procedures established by the USD(P&R) and C, DoD.

5.2.2.2. Considers whether the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, (reference (i)) has been complied with under Pub. L. No. 103-94 (1993) (reference (b)) prior to establishing an involuntary allotment against the pay of a member of the Military Services.

5.2.2.3. Acts as the DoD Executive Agent for DoD forms necessary to process involuntary allotments.

5.3. The Heads of the DoD Components shall urge military personnel to meet their just financial obligations, since failure to do so damages their credit reputation and affects the public image of all DoD personnel. See DoD Directives 1000.10, 1000.11, and 5500.7 (references (j), (k), and (l)).

5.4. The Secretaries of the Military Departments shall:

5.4.1. Establish, as necessary, procedures to administer and process involuntary allotments from the pay of members of the Military Services. This includes designating those commanders, or other officials who may act in the absence of the commander, who shall be responsible for determining whether a member's absence from a judicial proceeding was caused by exigencies of military duty, and establishing appeal procedures regarding such determinations.

5.4.2. Require commanders to counsel members to pay their just debts, including complying, as appropriate, with court orders and judgments for the payments of alimony or child support.

5.4.3. Emphasize prompt command action to assist with the processing of involuntary allotment applications.

5.5. The Chief, Office of Personnel and Training, for the Coast Guard shall:

5.5.1. Establish, as necessary, procedures supplemental to those promulgated by the USD(P&R) to administer and process involuntary allotment from the pay of members of the Military Services; this includes the authority to promulgate forms necessary for the efficient administration and processing of involuntary allotments.

5.5.2. Ensure that the Commanding Officer, Coast Guard Pay and Personal Center:

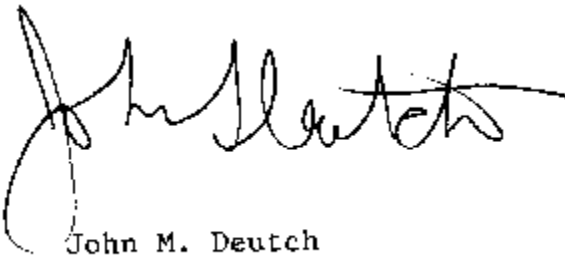
5.5.2.1. Implements procedures established by the USD(P&R) and Chief, Office of Personnel and Training.

5.5.2.2. Considers whether the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, (reference (i)) has been complied with under Pub. L. No. 103-94 (1993) (reference (b)) prior to establishing an involuntary allotment against the pay of a member of the Military Services.

5.5.2.3. Acts as the Coast Guard Executive Agent for forms necessary to process involuntary allotments.

6. EFFECTIVE DATE

This Directive is effectively immediately. The processing of involuntary allotment applications shall commence not later than January 1, 1995.

A handwritten signature in black ink, appearing to read "John M. Deutch". The signature is fluid and cursive, with a large initial "J" and "M".

John M. Deutch
Deputy Secretary of Defense

Enclosures - 2

E1. References, continued

E2. Definitions

E1. ENCLOSURE 1

REFERENCES, continued

- (e) Sections 801-940 of title 10, United States Code (Uniform Code of Military Justice, Articles 1-140)
- (f) Sections 651-665 of title 42, United States Code
- (g) DoD 7000.14-R, "Department of Defense Military Pay and Allowances Entitlements Manual," Vol 7, Part A, January 1, 1993, authorized by [DoD Instruction 7000.14](#), November 15, 1992,
- (h) DoD Instruction 7230.7, "User Charges," January 29, 1985 (32 CFR 204)
- (i) Appendix Sections 501-591 of title 50, United States Code (The Soldiers' and Sailors' Civil Relief Act of 1940, as amended)
- (j) DoD Directive 1000.10, "Procedures Governing Credit Unions on DoD Installations," July 26, 1989
- (k) [DoD Directive 1000.11](#), "Financial Institutions on DoD Installations," July 26, 1989
- (l) [DoD Directive 5500.7](#), "Standards of Conduct," August 30, 1989
- (m) Section 672 of title 10, United States Code

E2. ENCLOSURE 2

DEFINITIONS

E2.1.1. Absence. A member's lack of an "appearance," at any stage of the judicial process, as evidenced by failing to physically attend court proceedings; failing to be represented at court proceedings by counsel of the member's choosing; or failing to timely respond to pleadings, orders, or motions.

E2.1.2. Court. A court of competent jurisdiction within any State, territory, or possession of the United States.

E2.1.3. Debt Collector. An agency or agent engaged in the collection of debts described under Pub. L. No. 95-109 (1977) (reference (d)).

E2.1.4. Exigencies of Military Duty. A military assignment or mission-essential duty that, because of its urgency, importance, duration, location, or isolation, necessitates the absence of a member of the Military Services from appearance at a judicial proceeding or prevents the member from being able to respond to a notice of application for an involuntary allotment. Exigency of military duty is normally presumed during periods of war, national emergency, or when the member is deployed.

E2.1.5. Judgment. A final judgment must be a valid, enforceable order or decree, by a court from which no appeal may be taken, or from which no appeal has been taken within the time allowed, or from which an appeal has been taken and finally decided. The judgment must award a sum certain amount and specify that the amount is to be paid by an individual who, at the time of application for the involuntary allotment, is a member of the Military Services.

E2.1.6. Just Financial Obligations. A legal debt acknowledged by the military member in which there is no reasonable dispute as to the facts or the law; or one reduced to judgment that conforms to the Soldiers' and Sailors' Civil Relief Act of 1940; as amended (reference (i)), if applicable.

E2.1.7. Member of the Military Services. Any member of the Regular Army, Air Force, Navy, Marine Corps, or Coast Guard, and any member of a Reserve component of the Army, Air Force, Navy, Marine Corps or Coast Guard (including the Army National Guard of the United States and the Air National Guard of the United States) on active duty pursuant to Section 672 of 10 U.S.C. (reference (m)) for a period

in excess of 180 days at the time an application for involuntary allotment is received by the Director, DFAS, or Commanding Officer, Coast Guard Pay and Personnel Center. The following shall not be considered members:

E2.1.7.1. Retired personnel, including those placed on the temporary or permanent disabled retired list; and

E2.1.7.2. Personnel in a prisoner of war or missing in action status, as determined by the Secretary of the Military Department concerned.